

**House Report 108-169 - DEPARTMENT OF HOMELAND SECURITY
APPROPRIATIONS BILL, 2004**

ADDITIONAL VIEWS OF DAVID OBEY AND MARTIN OLAV SABO

Experts are in almost universal agreement that the United States continues to be a target for terrorist attacks that may be more devastating than the attacks of September 11, 2001.

It is for that reason that the Congress passed legislation last year creating a Department of Homeland Security. Moving the bureaucratic boxes on a sheet of paper, however, will not make the American people safer.

Our skies, ports, borders and infrastructure will only be safe if we apply careful planning and the resources necessary to implement those plans. The legislation accompanying this report is supposed to do that. Unfortunately it represents a stark failure to move forward in any meaningful way toward the challenge of reducing the terrorist threat.

INFORMATION GAPS INHIBIT LEGISLATIVE EFFORTS

The legislation fails in large part because of the failure of the executive branch to provide necessary information.

Budget justifications for many important activities within the Department were not submitted for months after the President's budget was released.

Hearings could not even be arranged for four of the largest and most important of the Department's eleven major agencies. Those four agencies constitute \$9 billion or 31% of the Department's total budget.

Witnesses that did appear before the committee were sometimes unprepared and unable to discuss major activities within their jurisdiction.

Budget numbers that were transmitted to the committee were presented based on comparisons with the President's fiscal year 2003 request rather than the levels actually appropriated for fiscal year 2003. The Department to date has failed to respond to the Committee's request for comparisons based on actual 2003 appropriated levels. As a result, a complete understanding of the resources now being used for specific activities within the Department or the amounts that would be needed to reach specific goals is not possible.

In short, no subcommittee could have put together a responsible allocation of resources based on the huge information gaps that existed at the time the

bill was reported. Standard budget documents, like those provided in 2003, required for making sensible decisions on any agency budget were not used in preparing this legislation.

Beyond that, the Department has failed to develop a useful roadmap of the security goals that the Department deems important; a time frame in which it hopes to achieve such goals or the cost associated in meeting a specific goal within a specific time frame. If anyone at the Department has a strategy for objectives such as securing the northern border, tracking all vessels entering American waters or insuring that airline cargo is effectively screened, no one has been willing to share that information with the relevant

committees of the Congress and in particular, the subcommittee charged with writing the Department's budget.

As a result, many of the windows of opportunity for terrorist organizations such as al Qaeda are nearly as widely open today as they were a year and a half ago and we seem to be stalled in terms of putting in place a program that will close those windows.

STANDSTILL BUDGET

Overall this bill provides \$29.4 billion in discretionary funding for fiscal year 2004. That is only about 1.8% above the overall funding level provided to agencies and activities within the Department for fiscal year 2003. CBO forecasts that prices will increase during the current fiscal year by 2.3%. As a result the bill actually provides funding for the coming year that in real dollar terms is about \$150 million below current levels.

Because of the lack of comparable budget information for most activities within the Department it is hard to state exactly what priorities this proposed level of funding is sacrificing. We have attempted to make a few extrapolations based on the scarce information that is available to address a few of these issues.

MISSING THE PATRIOT ACT GOAL ON NORTHERN BORDER STAFFING

When the Patriot Act was passed in the fall of 2001, it called for the tripling of staffing on the northern border. The risks posed by that border are not merely a matter of conjecture. Al Qaeda operatives have crossed the border carrying explosives. It is 5500 miles in length and until early 2002 it was protected at some border crossings only with traffic cones when agents were available to operate at crossing positions.

Tripling would require that the level of staff be increased from roughly 2300 on the border in the fall of 2001 to 6900 by the end of 2004. Thus far the

Department has refused to provide the Committee with an operating plan for using funds provided in the FY03 omnibus and the FY03 supplemental for expanding staff and activities on the northern border. It has indicated, however, that it expects 4183 staff to be in place by September 30th and 5000 by the end of Fiscal 2004. That would mean that the Department will be about 10% behind its staffing goal for the northern border by this September and 28% behind by the end of the fiscal year for which this legislation provides funding.

Also disturbing is the fact that it appears that the Department may actually be deliberately slowing down the recruitment and hiring of agents at the present time in order to save funds to meet the anticipated plan for hiring next year. The overall spending level for Immigration and Naturalization Officers, Customs Agents and Agriculture Inspectors in this bill is only 0.3% higher than the amounts we provided these activities for the current fiscal year. Therefore, any increase in these activities in FY 2004 is likely to come from monies unspent and carried forward from FY 2003.

While the administration has failed to openly address whether or not it deems the goal of 6900 agents on the northern border is reasonable it has clearly decided it does not wish to spend the money to meet that goal within the time frame established under the act. At the recruitment rate proposed in the budget and recommended in the Committee's bill we will not have 6900 inspectors on the northern border until early in fiscal 2007.

TWENTY YEARS BEFORE WE SECURE OUR PORTS?

Another example of the failure of this bill to move forward in closing security gaps is the funds made available for port security. There are several discrete aspects to port security. One is controlling maritime traffic into and within the port area. Another is the inspection of people and cargo coming through the port. There is no evidence that the funds contained in this bill will bring about improvements in either of those activities. Neither the bill nor the request provided any initiatives for improved tracking of vessels, or interdiction of vessels that may pose a threat to life or property. There is also no increase in funds for personnel or equipment to increase the current portion of containers inspected or our capacity to target such inspections.

The Committee did provide \$100 million in funds not requested by the President for a third aspect of port security, securing and protecting the docks and dockside storage areas of our nation's ports. The Coast Guard has estimated that the overall cost of providing the fencing, cameras and other security measures to keep terrorists from gaining easy access to these areas is about \$4.4 billion. So far we have provided about \$450 million or 10% of the amount needed. If the federal government were to split the cost of securing these facilities with the local port authorities (although there is no evidence that the port authorities have the capacity to generate the revenue

required to pay the other half) it would cost each \$2 billion. If the Congress sustains the funding level contained in the Committee bill it will require exactly 20 years to secure all docks and dockside storage areas.

These are only two examples where federal actions to improve security have all but stalled and where terrorists will find that America presents a fatter target than our plans and rhetoric after September 11th would have permitted. There can be little doubt that whatever the Administration and the majority party in Congress may profess about the priority that they attach to homeland security, it is clearly taking a back seat to their tax policy.

Just this year, legislation has been signed into law giving \$330 billion in new tax breaks. The 200,000 most well off taxpayers in the country, people whose annual income exceeds \$1,000,000 will get \$88,000 each this year as a result of those tax cuts. That adds up to more than \$17 billion in lost revenue just for the tax cuts going to those 200,000 taxpayers. Only a small fraction of that money could make a world of difference in the speed at which we close security gaps on our borders and in our ports.

A MODEST AMENDMENT

In Committee we offered an amendment that would have scaled back the tax cut going to those high-income individuals by \$5000 for one year. That means their tax break would have been \$83,000 instead of \$88,000. That produced \$1 billion in revenue that we proposed to use to make the country and coincidentally the property of these high-income taxpayers safer. Additional funds were provided in the following areas:

Secure port facilities

The amendment would have provided an additional \$500 million above the \$100 million included in the bill for port security grants. The Coast Guard estimates that \$4.4 billion is needed for port facility security improvements. The amendment would bring to 25% the Federal contribution to port facility security needs--a modest one compared to the impact of an attack at one of our ports. If we were to stay with the \$100 million contained in the bill, it would take close to 20 years to make half of the port facility security improvements the Coast Guard says are needed.

The amendment would also have provided \$100 million for the Coast Guard to effectively implement the Maritime Transportation Security Act (MTSA) passed last November. That Act calls for the Coast Guard to improve and analyze vessel threat information, to develop and implement a long-range automated vessel tracking system, and to determine if foreign ports maintain effective antiterrorism measures.

The Coast Guard has acknowledged substantial requirements for personnel and funding in fiscal years 2003 and 2004 to fully implement the new MTSA responsibilities. The Committee bill includes no additional funding for this purpose.

Develop comprehensive plan to secure our northern border

The amendment would have provided an additional \$200 million to improve northern border security. These funds could be used in either of two ways or in some combination of both. The additional \$200 million would allow the administration to reach the Patriot Act goal of staffing the northern border with 6900 agents by the end of fiscal 2004. As stated earlier the Administration currently has no means to monitor long, unguarded stretches of the 5,500-mile northern border.

Many experts believe that air and marine interdiction operations should be a high priority for improving the security of that border. During Operation Liberty Shield, when the northern border was patrolled by air for 30 days, 10 aircraft came across the border without clearance. Any one of these could have been carrying weapons of mass destruction. Possible cost of year-round air and marine interdiction would be in the neighborhood of \$200 million.

End sabotage threat of overseas aircraft and secure the backsides of airports

The amendment would also have provided \$150 million for aviation security improvements--for problems identified in the past but not addressed in this legislation

because of the Transportation Security Administration's focus on screening. These items include grants to airports to improve perimeter security and TSA funding to secure overseas maintenance facilities for U.S. aircraft.

Secure critical infrastructure

Finally, the amendment would have increased funding to the Information Analysis and Infrastructure Protection (IAIP) program by \$50 million, restoring the reduction below the President's request that is contained in the Committee bill. The Department must work as quickly as possible to perform vulnerability assessments of our nation's high-risk critical assets and make needed security improvements. Funding should be added for this purpose, not reduced.

CONCLUSION

It is highly unfortunate that the Committee elected to proceed with legislation for funding this Department in the absence of adequate information showing the unmet security needs facing the country or how the

amounts that would be available either under the President's request or the Committee's proposed appropriation level compared to current year spending levels for specific programs. It would probably be in the best interest of the country if action on this legislation were withheld until those questions could be answered.

It is also difficult to know what funds should be provided the Department based on continuing evidence of bureaucratic chaos and mismanagement. Based on the best information the committee has been able to obtain, the Department still does not have a printed phone directory and appears to lack many of the other tools that mark a functioning organization. As a result, a number of areas where more resources might be desirable in the interest of national security are areas where there is no assurance that the funds could be used in a wise or effective manner.

The items contained in the amendment discussed above are all things that we feel could be accomplished despite the current chaos troubling the Department. They are certainly the very minimum that we should be doing, given events taking place throughout the world today.

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